

RURAL JOB CREATION TAX CREDIT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates a nonrefundable tax credit for rural job creation.

Highlighted Provisions:

This bill:

- ▶ creates a nonrefundable tax credit for rural job creation; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63N-4-302, as enacted by Laws of Utah 2017, Chapter 274

ENACTS:

59-9-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-9-108** is enacted to read:

59-9-108. Nonrefundable rural job creation tax credit.

(1) As used in this section, "office" means the Governor's Office of Economic



28 Development created in Section 63N-1-201.

29 (2) Subject to the other provisions of this section, a taxpayer may claim a
30 nonrefundable tax credit for rural job creation as provided in this section.

31 (3) The tax credit under this section is the amount listed as the tax credit amount on a
32 tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs
33 Act, to the taxpayer for the taxable year.

34 (4) A taxpayer may carry forward a tax credit under this section for the next seven
35 taxable years if the amount of the tax credit exceeds the taxpayer's tax liability under this
36 chapter for the taxable year in which the taxpayer claims the tax credit.

37 (5) An entity required to pay a retaliatory tax levied under this chapter for a reason
38 other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is
39 calculated, and the tax credit may be used to offset retaliatory tax liability.

40 (6) Notwithstanding the other provisions of this section, this section does not apply to
41 an admitted insurer to the extent that the admitted insurer writes workers' compensation
42 insurance in this state and has premiums taxed under Subsection 59-9-101(2).

43 (7) (a) On or before November 30, 2021, and every three years after 2021, the Revenue
44 and Taxation Interim Committee shall review the tax credit provided by this section and make
45 recommendations concerning whether the tax credit should be continued, modified, or
46 repealed.

47 (b) In conducting the review required by Subsection (7)(a), the Revenue and Taxation
48 Interim Committee shall:

49 (i) schedule time on at least one committee agenda to conduct the review;

50 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
51 under review to provide testimony;

52 (iii) ensure that the recommendations described in this section include an evaluation of:

53 (A) the cost of the tax credit to the state;

54 (B) the purpose and effectiveness of the tax credit; and

55 (C) the extent to which the state benefits from the tax credit; and

56 (iv) undertake other review efforts as determined by the chairs of the Revenue and
57 Taxation Interim Committee.

58 Section 2. Section 63N-4-302 is amended to read:

59 **63N-4-302. Definitions.**

60 As used in this part:

61 (1) (a) "Affiliate" means a person that directly, or indirectly through one or more
62 intermediaries, controls, is controlled by, or is under common control with another person.

63 (b) For the purposes of this part, a person controls another person if the person holds,
64 directly or indirectly, the majority voting or ownership interest in the controlled person or has
65 control over the day-to-day operations of the controlled person by contract or by law.

66 (2) "Claimant" means a resident or nonresident person that has state taxable income.

67 (3) "Closing date" means the date on which a rural investment company has collected
68 all of the investments described in Subsection 63N-4-303(7).

69 (4) (a) "Credit-eligible contribution" means an investment of cash by a claimant in a
70 rural investment company that is or will be eligible for a tax credit as evidenced by notification
71 issued by the office under Subsection 63N-4-303(5)(c).

72 (b) The investment shall purchase an equity interest in the rural investment company or
73 purchase, at par value or premium, a debt instrument issued by the rural investment company
74 that has a maturity date at least five years after the closing date.

75 (5) "Eligible small business" means a business that at the time of an initial growth
76 investment in the business by a rural investment company:

77 (a) has fewer than 150 employees;

78 (b) has less than \$10,000,000 in net income for the preceding taxable year;

79 (c) maintains the business's principal business operations in the state; and

80 (d) is engaged in an industry related to:

81 (i) aerospace;

82 (ii) defense;

83 (iii) energy and natural resources;

84 (iv) financial services;

85 (v) life sciences;

86 (vi) outdoor products;

87 (vii) software development;

88 (viii) information technology;

89 (ix) manufacturing; or

90 (x) agribusiness.

91 (6) (a) "Excess return" means the difference between:

92 (i) the present value of all growth investments made by a rural investment company on
93 the day the rural investment company applies to exit the program under Section [63N-4-309](#),

94 including the present value of all distributions and gains from the growth investments; and

95 (ii) the sum of the amount of the original growth investment and an amount equal to
96 any projected increase in the equity holder's federal or state tax liability, including penalties and

97 interest, related to the equity holder's ownership, management, or operation of the rural

98 investment company.

99 (b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is
100 equal to zero.

101 (7) "Federally licensed rural business investment company" means a person licensed as
102 a rural business investment company under 7 U.S.C. Sec. 2009cc.

103 (8) "Federally licensed small business investment company" means a person licensed
104 as a small business investment company under 15 U.S.C. Sec. 681.

105 (9) (a) "Full-time employee" means an employee that throughout the year works at
106 least 30 hours per week or meets the customary practices accepted by that industry as full time.

107 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
108 office may make rules that establish additional hour or other criteria to determine what
109 constitutes a full-time employee.

110 (10) "Growth investment" means any capital or equity investment in an eligible small
111 business or any loan made from the investment authority to an eligible small business with a
112 stated maturity at least one year after the date of issuance.

113 (11) (a) "High wage" means a wage that is at least 100% of the county average wage.

114 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
115 office may make rules that establish additional criteria to determine what constitutes a high
116 wage.

117 (12) "Investment authority" means the minimum amount of investment a rural
118 investment company must make in eligible small businesses in order for credit-eligible
119 contributions to the rural investment company to qualify for a rural job creation tax credit
120 under Section [59-7-621](#), [59-9-108](#), or [59-10-1038](#).

- 121 (13) (a) "New annual jobs" means the difference between:
122 (i) (A) the monthly average of full-time employees that are paid a high wage at an
123 eligible small business for the preceding calendar year; or
124 (B) if the preceding calendar year contains the initial growth investment, the monthly
125 average of full-time employees that are paid a high wage at an eligible small business for the
126 months including and after the initial growth investment and before the end of the preceding
127 calendar year; and
128 (ii) the number of full-time employees at the eligible small business on the date of the
129 initial growth investment.
130 (b) If the amount calculated in Subsection [~~(2)(a)~~] (13)(a) is less than zero, the new
131 annual jobs amount is equal to zero.
132 (14) (a) "Principal business operations" means the location where at least 60% of a
133 business's employees work or where employees that are paid at least 60% of a business's
134 payroll work.
135 (b) For the purposes of this part, an out-of-state business that agrees to relocate
136 employees to this state to establish the business's principal business operations in this state
137 using the proceeds of a growth investment is considered to have the business's principal
138 business operations in this state if the business satisfies the requirements of Subsection (14)(a)
139 within 180 days after receiving the growth investment, unless the office agrees to a later date.
140 (15) "Program" means the provisions of this part applicable to a rural investment
141 company.
142 (16) "Rural county" means any county in this state except Salt Lake, Utah, Davis,
143 Weber, Washington, Cache, Tooele, and Summit counties.
144 (17) "Rural investment company" means a person approved by the office under Section
145 [63N-4-303](#).
146 (18) (a) "State reimbursement amount" means the difference between:
147 (i) 50% of the rural investment company's credit-eligible capital contributions; and
148 (ii) the product of:
149 (A) the total sum of new annual jobs reported to the state in the rural investment
150 company's exit report described in Section [63N-4-309](#); and
151 (B) \$20,000.

152 (b) If the amount calculated in Subsection (18)(a) is less than zero, the state
153 reimbursement amount is equal to zero.

154 (19) "Tax credit" means a rural job creation tax credit created by Section [59-7-621](#),
155 [59-9-108](#), or [59-10-1038](#).

156 (20) "Tax credit certificate" means a certificate issued by the office that:

157 (a) lists the name of the person to which the office authorizes a tax credit;

158 (b) lists the person's taxpayer identification number;

159 (c) lists the amount of tax credit that the office authorizes the person to claim for the
160 taxable year; and

161 (d) may include other information as determined by the office.

162 **Section 3. Effective date.**

163 This bill takes effect for a taxable year beginning on or after January 1, 2020.